

APPENDIX A

Pages 12-30

1
2
3
4
5
6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

7 IN AND FOR THE COUNTY OF YAKIMA

8 YAKIMA VALLEY COMMUNITY
9 FOUNDATION, a Washington nonprofit
10 corporation,

No.

11 Plaintiff,

12 v.
13 SUMMONS

14 HEALTH MANAGEMENT
15 ASSOCIATES, LLC, a Washington
16 corporation, HEALTH MANAGEMENT
17 ASSOCIATES, INC., a Michigan
18 corporation, YAKIMA HMA LLC., a
19 Washington corporation, and CHSPSC,
20 LLC, a Delaware corporation,

Defendants.

21 TO DEFENDANT YAKIMA HMA LLC:

22 A lawsuit has been started against you in the above-entitled Court by plaintiff Yakima
23 Valley Community Foundation. Plaintiff's claim is stated in the written complaint, a copy of
24 which is served upon you with this summons.

25 In order to defend against this lawsuit, you must respond to the complaint by stating your
26 defense in writing, and serve a copy upon the undersigned attorney for the plaintiff within 20
days after the service of this summons, excluding the day of service, or a default judgment may

SUMMONS - 1.

30132 1 fd29bn17h8

PACIFICA LAW GROUP LLP
1191 SECOND AVENUE
SUITE 2000
SEATTLE, WASHINGTON 98101-3404
TELEPHONE: (206) 245-1700
FACSIMILE: (206) 245-1750

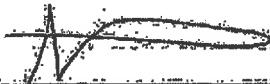
1 be entered against you without notice. A default judgment is one where plaintiff is entitled to
2 what it asks for because you have not responded. If you serve a notice of appearance on the
3 undersigned attorney, you are entitled to notice before a default judgment may be entered.
4

5 If you wish to seek the advice of an attorney in this matter, you should do so promptly so
6 that your written response, if any, may be served on time.
7

8 This summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State
9 of Washington.
10

11 DATED this 29th day of April, 2016.
12

13 PACIFICA LAW GROUP LLP
14

15 By 
16 Paul J. Lawrence, WSBA # 13557
17 Alanna E. Peterson, WSBA #46502
18
19
20
21
22
23
24
25
26

27 Attorneys for Plaintiff Yakima Valley
28 Community Foundation
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
259
260
261
262
263
264
265
266
267
268
269
269
270
271
272
273
274
275
276
277
278
279
279
280
281
282
283
284
285
286
287
288
289
289
290
291
292
293
294
295
296
297
298
299
299
300
301
302
303
304
305
306
307
308
309
309
310
311
312
313
314
315
316
317
318
319
319
320
321
322
323
324
325
326
327
328
329
329
330
331
332
333
334
335
336
337
338
339
339
340
341
342
343
344
345
346
347
348
349
349
350
351
352
353
354
355
356
357
358
359
359
360
361
362
363
364
365
366
367
368
369
369
370
371
372
373
374
375
376
377
378
379
379
380
381
382
383
384
385
386
387
388
389
389
390
391
392
393
394
395
396
397
398
399
399
400
401
402
403
404
405
406
407
408
409
409
410
411
412
413
414
415
416
417
418
419
419
420
421
422
423
424
425
426
427
428
429
429
430
431
432
433
434
435
436
437
438
439
439
440
441
442
443
444
445
446
447
448
449
449
450
451
452
453
454
455
456
457
458
459
459
460
461
462
463
464
465
466
467
468
469
469
470
471
472
473
474
475
476
477
478
479
479
480
481
482
483
484
485
486
487
488
489
489
490
491
492
493
494
495
496
497
498
499
499
500
501
502
503
504
505
506
507
508
509
509
510
511
512
513
514
515
516
517
518
519
519
520
521
522
523
524
525
526
527
528
529
529
530
531
532
533
534
535
536
537
538
539
539
540
541
542
543
544
545
546
547
548
549
549
550
551
552
553
554
555
556
557
558
559
559
560
561
562
563
564
565
566
567
568
569
569
570
571
572
573
574
575
576
577
578
579
579
580
581
582
583
584
585
586
587
588
589
589
590
591
592
593
594
595
596
597
598
599
599
600
601
602
603
604
605
606
607
608
609
609
610
611
612
613
614
615
616
617
618
619
619
620
621
622
623
624
625
626
627
628
629
629
630
631
632
633
634
635
636
637
638
639
639
640
641
642
643
644
645
646
647
648
649
649
650
651
652
653
654
655
656
657
658
659
659
660
661
662
663
664
665
666
667
668
669
669
670
671
672
673
674
675
676
677
678
679
679
680
681
682
683
684
685
686
687
688
689
689
690
691
692
693
694
695
696
697
698
698
699
699
700
701
702
703
704
705
706
707
708
709
709
710
711
712
713
714
715
716
717
718
719
719
720
721
722
723
724
725
726
727
728
729
729
730
731
732
733
734
735
736
737
738
739
739
740
741
742
743
744
745
746
747
748
749
749
750
751
752
753
754
755
756
757
758
759
759
760
761
762
763
764
765
766
767
768
769
769
770
771
772
773
774
775
776
777
778
779
779
780
781
782
783
784
785
786
787
788
789
789
790
791
792
793
794
795
796
797
798
798
799
799
800
801
802
803
804
805
806
807
808
809
809
810
811
812
813
814
815
816
817
818
819
819
820
821
822
823
824
825
826
827
828
829
829
830
831
832
833
834
835
836
837
838
839
839
840
841
842
843
844
845
846
847
848
849
849
850
851
852
853
854
855
856
857
858
859
859
860
861
862
863
864
865
866
867
868
869
869
870
871
872
873
874
875
876
877
878
879
879
880
881
882
883
884
885
886
887
888
889
889
890
891
892
893
894
895
896
897
898
898
899
899
900
901
902
903
904
905
906
907
908
909
909
910
911
912
913
914
915
916
917
918
919
919
920
921
922
923
924
925
926
927
928
929
929
930
931
932
933
934
935
936
937
938
939
939
940
941
942
943
944
945
946
947
948
949
949
950
951
952
953
954
955
956
957
958
959
959
960
961
962
963
964
965
966
967
968
969
969
970
971
972
973
974
975
976
977
978
979
979
980
981
982
983
984
985
986
987
988
988
989
989
990
991
992
993
994
995
996
997
998
998
999
999
1000
1001
1002
1003
1004
1005
1006
1007
1008
1009
1009
1010
1011
1012
1013
1014
1015
1016
1017
1018
1019
1019
1020
1021
1022
1023
1024
1025
1026
1027
1028
1029
1029
1030
1031
1032
1033
1034
1035
1036
1037
1038
1039
1039
1040
1041
1042
1043
1044
1045
1046
1047
1048
1049
1049
1050
1051
1052
1053
1054
1055
1056
1057
1058
1059
1059
1060
1061
1062
1063
1064
1065
1066
1067
1068
1069
1069
1070
1071
1072
1073
1074
1075
1076
1077
1078
1079
1079
1080
1081
1082
1083
1084
1085
1086
1087
1088
1088
1089
1089
1090
1091
1092
1093
1094
1095
1096
1097
1098
1098
1099
1099
1100
1101
1102
1103
1104
1105
1106
1107
1108
1109
1109
1110
1111
1112
1113
1114
1115
1116
1117
1118
1119
1119
1120
1121
1122
1123
1124
1125
1126
1127
1128
1129
1129
1130
1131
1132
1133
1134
1135
1136
1137
1138
1139
1139
1140
1141
1142
1143
1144
1145
1146
1147
1148
1149
1149
1150
1151
1152
1153
1154
1155
1156
1157
1158
1159
1159
1160
1161
1162
1163
1164
1165
1166
1167
1168
1169
1169
1170
1171
1172
1173
1174
1175
1176
1177
1178
1179
1179
1180
1181
1182
1183
1184
1185
1186
1187
1188
1188
1189
1189
1190
1191
1192
1193
1194
1195
1196
1197
1198
1198
1199
1199
1200
1201
1202
1203
1204
1205
1206
1207
1208
1209
1209
1210
1211
1212
1213
1214
1215
1216
1217
1218
1219
1219
1220
1221
1222
1223
1224
1225
1226
1227
1228
1229
1229
1230
1231
1232
1233
1234
1235
1236
1237
1238
1239
1239
1240
1241
1242
1243
1244
1245
1246
1247
1248
1249
1249
1250
1251
1252
1253
1254
1255
1256
1257
1258
1259
1259
1260
1261
1262
1263
1264
1265
1266
1267
1268
1269
1269
1270
1271
1272
1273
1274
1275
1276
1277
1278
1279
1279
1280
1281
1282
1283
1284
1285
1286
1287
1288
1288
1289
1289
1290
1291
1292
1293
1294
1295
1296
1297
1298
1298
1299
1299
1300
1301
1302
1303
1304
1305
1306
1307
1308
1309
1309
1310
1311
1312
1313
1314
1315
1316
1317
1318
1319
1319
1320
1321
1322
1323
1324
1325
1326
1327
1328
1329
1329
1330
1331
1332
1333
1334
1335
1336
1337
1338
1339
1339
1340
1341
1342
1343
1344
1345
1346
1347
1348
1349
1349
1350
1351
1352
1353
1354
1355
1356
1357
1358
1359
1359
1360
1361
1362
1363
1364
1365
1366
1367
1368
1369
1369
1370
1371
1372
1373
1374
1375
1376
1377
1378
1379
1379
1380
1381
1382
1383
1384
1385
1386
1387
1388
1388
1389
1389
1390
1391
1392
1393
1394
1395
1396
1397
1398
1398
1399
1399
1400
1401
1402
1403
1404
1405
1406
1407
1408
1409
1409
1410
1411
1412
1413
1414
1415
1416
1417
1418
1419
1419
1420
1421
1422
1423
1424
1425
1426
1427
1428
1429
1429
1430
1431
1432
1433
1434
1435
1436
1437
1438
1439
1439
1440
1441
1442
1443
1444
1445
1446
1447
1448
1449
1449
1450
1451
1452
1453
1454
1455
1456
1457
1458
1459
1459
1460
1461
1462
1463
1464
1465
1466
1467
1468
1469
1469
1470
1471
1472
1473
1474
1475
1476
1477
1478
1479
1479
1480
1481
1482
1483
1484
1485
1486
1487
1488
1488
1489
1489
1490
1491
1492
1493
1494
1495
1496
1497
1498
1498
1499
1499
1500
1501
1502
1503
1504
1505
1506
1507
1508
1509
1509
1510
1511
1512
1513
1514
1515
1516
1517
1518
1519
1519
1520
1521
1522
1523
1524
1525
1526
1527
1528
1529
1529
1530
1531
1532
1533
1534
1535
1536
1537
1538
1539
1539
1540
1541
1542
1543
1544
1545
1546
1547
1548
1549
1549
1550
1551
1552
1553
1554
1555
1556
1557
1558
1559
1559
1560
1561
1562
1563
1564
1565
1566
1567
1568
1569
1569
1570
1571
1572
1573
1574
1575
1576
1577
1578
1579
1579
1580
1581
1582
1583
1584
1585
1586
1587
1588
1588
1589
1589
1590
1591
1592
1593
1594
1595
1596
1597
1598
1598
1599
1599
1600
1601
1602
1603
1604
1605
1606
1607
1608
1609
1609
1610
1611
1612
1613
1614
1615
1616
1617
1618
1619
1619
1620
1621
1622
1623
1624
1625
1626
1627
1628
1629
1629
1630
1631
1632
1633
1634
1635
1636
1637
1638
1639
1639
1640
1641
1642
1643
1644
1645
1646
1647
1648
1649
1649
1650
1651
1652
1653
1654
1655
1656
1657
1658
1659
1659
1660
1661
1662
1663
1664
1665
1666
1667
1668
1669
1669
1670
1671
1672
1673
1674
1675
1676
1677
1678
1679
1679
1680
1681
1682
1683
1684
1685
1686
1687
1688
1688
1689
1689
1690
1691
1692
1693
1694
1695
1696
1697
1698
1698
1699
1699
1700
1701
1702
1703
1704
1705
1706
1707
1708
1709
1709
1710
1711
1712
1713
1714
1715
1716
1717
1718
1719
1719
1720
1721
1722
1723
1724
1725
1726
1727
1728
1729
1729
1730
1731
1732
1733
1734
1735
1736
1737
1738
1739
1739
1740
1741
1742
1743
1744
1745
1746
1747
1748
1749
1749
1750
1751
1752
1753
1754
1755
1756
1757
1758
1759
1759
1760
1761
1762
1763
1764
1765
1766
1767
1768
1769
1769
1770
1771
1772
1773
1774
1775
1776
1777
1778
1779
1779
1780
1781
1782
1783
1784
1785
1786
1787
1788
1788
1789
1789
1790
1791
1792
1793
1794
1795
1796
1797
1798
1798
1799
1799
1800
1801
1802
1803
1804
1805
1806
1807
1808
1809
1809
1810
1811
1812
1813
1814
1815
1816
1817
1818
1819
1819
1820
1821
1822
1823
1824
1825
1826
1827
1828
1829
1829
1830
1831
1832
1833
1834
1835

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
FILED
APR 29 2016
YAKIMA COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF YAKIMA

YAKIMA VALLEY COMMUNITY
FOUNDATION, a Washington nonprofit
corporation,

Plaintiff,

v.

HEALTH MANAGEMENT
ASSOCIATES, LLC, a Washington
corporation, HEALTH MANAGEMENT
ASSOCIATES, INC., a Michigan
corporation, YAKIMA HMA LLC., a
Washington corporation, and CHSPSC,
LLC, a Delaware corporation,

Defendants.

No. 162 0118439

COMPLAINT FOR
DECLARATORY JUDGMENT

I. INTRODUCTION

The Yakima Regional Medical and Cardiac Center and the Toppenish Community Hospital (the "Hospitals") provide vital health and social services to the people of the Yakima Valley. When the Hospitals were transferred from a nonprofit entity to a corporate parent, Health Management Associates, Inc., and its subsidiary, Yakima HMA, LLC (together, "HMA"), the parties agreed to create the Yakima Valley Community Foundation (the "Foundation") to

COMPLAINT FOR DECLARATORY JUDGMENT - 1

PACIFICA LAW GROUP LLP
1191 SECOND AVENUE
SUITE 2100
SEATTLE, WASHINGTON 98101
TELEPHONE: (206) 245-1700
FACSIMILE: (206) 245-1750

1 ensure the continued quality of and accessibility to affordable health care services for all
 2 members of the community. As required by state law, HMA covenanted to ensure the same.
 3 Similarly HMA was required to commit to providing health care to the disadvantaged, the
 4 uninsured, and the underinsured and to providing benefits to promote improved health in the
 5 community. But HMA and its successors-in-interest have fallen short. For example, State law
 6 requires that the Hospitals use reasonable efforts to provide essential health care services to
 7 indigent persons, known as charity care, in an amount comparable to or exceeding the regional
 8 average. But since at least 2011, the Hospitals have failed to meet the regional average.

9 As required by state law, the parties also provided the Foundation with a right of first
 10 refusal ("ROFR") in the event HMA or its successors-in-interest seek to dispose of the Hospitals.
 11 The ROFR ensures that the Foundation can protect the interests of the Yakima Valley
 12 community in the event of a proposed sale. To invoke the ROFR, HMA must provide notice to
 13 the Foundation of a proposed binding transaction, which must include a complete description of
 14 the transaction's essential terms. On March 16, 2016, HMA asserted that a preliminary,
 15 nonbinding letter of intent invoked the Foundation's ROFR. The Foundation disagreed that the
 16 non-binding letter of intent was sufficient to trigger the ROFR, and proposed that HMA
 17 withdraw its notice and provide an executed, binding, and complete agreement with the proposed
 18 buyer instead. Moreover, the Foundation also sought confirmation of its ability to assign its
 19 ROFR to a third party. HMA stated that the ROFR did not allow an assignment although there is
 20 nothing in the ROFR that prohibits assignment. Finally, as an alternative, the Foundation
 21 requested that HMA extend the timeframes for exercising and closing a transaction under the
 22 ROFR in light of the fact that the proposed agreement had not been signed and the potential
 23 acquiring company was continuing a due diligence process that likely would affect the final

1 terms of the agreement. HMA rejected that effort as well, and instead asserted that the
2 Foundation had until only April 29, 2016 to exercise its ROFR or lose its rights.

3 Accordingly, the Foundation had no choice but to file this declaratory judgment action to
4 ensure that HMA and its successor-in-interest CHSPSC, LLC meet their obligations under the
5 law and under contract to meet the health care needs of all members of the Yakima Valley
6 community.

7 **II. PARTIES**

8 1. The Foundation is a Washington nonprofit corporation and the fourth-largest
9 community foundation in Washington. The Foundation distributes its endowment to improve the
10 quality and accessibility of health care services in the Yakima Valley.

11 2. Health Management Associates, LLC is a Washington corporation. It has been
12 inactive since November 11, 2006.

13 3. Health Management Associates, Inc. is a Michigan corporation. It has been
14 inactive since September 1, 2015. Health Management Associates, Inc., along with Yakima
15 HMA, LLC, acquired the Hospitals in 2003.

16 4. Yakima HMA, LLC is a Washington corporation and a subsidiary of Health
17 Management Associates, Inc. Yakima HMA, LLC was created in 2003 to acquire and
18 subsequently operate the Hospitals.

19 5. CHSPSC, LLC is a Delaware corporation. CHSPSC, LLC is the successor-in-
20 interest to Health Management Associates, Inc. and currently owns and operates the Hospitals.

21 **III. JURISDICTION AND VENUE**

22 6. This Court has subject matter and personal jurisdiction over the parties pursuant
23 to Chapter 7.24 RCW and Chapter 2.08 RCW.

7. Venue is proper pursuant to RCW 4.12.025. This dispute relates to real property in Yakima County, Washington.

IV. FACTS

8. Washington State has a vested interest in "assuring the continued existence of accessible, affordable health care facilities that are responsive to the needs of the communities in which they exist." RCW 70.45.010.

9. The state legislature recognizes that the sale of nonprofit hospitals to for-profit entities may imperil that interest. The legislature adopted stringent requirements to safeguard to charitable and public assets of nonprofit hospitals in the event of such a sale. Chapter 70.45 RCW.

10. All transactions involving the sale of nonprofit hospitals must "not detrimentally affect the continued existence of accessible, affordable health care that is responsive to the needs of the community in which the hospital to be acquired is located." RCW 70.45.080. Moreover, the transaction must ensure that "[s]ufficient safeguards are included to assure the affected community continued access to affordable care . . ." RCW 70.45.080; RCW 70.45.070.

11. RCW 70.45.080 also requires that “[t]he acquiring person and parties to the acquisition are committed to providing health care to the disadvantaged, the uninsured, and the underinsured and to providing benefits to promote improved health in the affected community.”

12. To ensure the continued quality and accessibility of care, RCW 70.45 requires that “[a] right of first refusal to repurchase the assets by a successor nonprofit corporation or foundation has been retained if the hospital is subsequently sold to, acquired by, or merged with another entity.” RCW 70.45.070.

1 13. Providence Health System Washington ("Providence"), a nonprofit corporation,
2 owned and operated two acute care hospitals in the Yakima Valley, the Yakima Regional
3 Medical and Cardiac Center and the Toppenish Community Hospital (the "Hospitals").

4 14. In 2003, Providence contemplated the sale of the Hospitals to Health Management
5 Associates, Inc. and Yakima HMA, LLC, both for-profit corporations.

6 15. To execute the sale, Providence, Health Management Associates, Inc., and
7 Yakima HMA, LLC entered into an Asset Purchase Agreement on March 18, 2003 (the
8 "Agreement"). (Health Management Associates, Inc. and Yakima HMA, LLC and their
9 successor-in-interest CHSPSC together are referenced as "HMA").

10 16. The Attorney General reviewed the proposed sale to ensure that it complied with
11 the requirements of Chapter RCW 70.45, including the continued quality and accessibility of
12 healthcare for the people of the Yakima Valley.

13 17. Providence created the Foundation, an independent community foundation to
14 control the assets from the sale to ensure that the proceeds were used to "further charitable
15 purposes, including the provision of healthcare to the disadvantaged, the uninsured and
16 underinsured" and to "provid[e] benefits to promote improved health in and around Yakima
17 County." Agreement, 10.3(h).

18 18. Pursuant to RCW 70.45.070, Providence and HMA elected to provide the right of
19 first refusal ("ROFR") to the Foundation in the event HMA proposes to dispose of the Hospitals
20 through transfer, sale, merger, or consolidation ("Disposition"). Agreement, Schedule 10.8(a),
21 attached as Exhibit A.

22 19. To invoke the ROFR, HMA must provide adequate notice to the Foundation.
23 Notice must include "a complete description of the essential terms of the proposed Disposition,

1 including the nature and amount of the proposed consideration and the proposed payment terms
 2 thereof." Schedule 10.8(a).

3 20. Within 30 days of receiving adequate notice, the Foundation may elect to exercise
 4 the ROFR by notifying HMA and providing a "good faith deposit" to HMA equal to five percent
 5 of the consideration proposed to be paid by the other buyer ("First Refusal Price"). Schedule,
 6 10(b).

7 21. Consistent with the state's interest in the continued quality and accessibility of
 8 healthcare, the legislature requires that hospitals offer a certain amount of charity care.

9 22. Charity care is "necessary hospital health care rendered to indigent persons, to the
 10 extent that the persons are unable to pay for the care or to pay deductibles or co-insurance
 11 amounts required by a third-party payer." RCW 70.170.020.

12 23. The State Department of Health issued Certificates of Need for the Hospitals.
 13 The Certificates of Need require that the Hospitals use "reasonable efforts to provide charity care
 14 in an amount comparable to or exceeding the average amount of charity care provided by
 15 hospitals in the Central Region."

16 24. From 2006 to 2014, the average percentage of patient service dedicated to charity
 17 care in the Central Washington region was 1.48%. But at Yakima Regional Medical and Cardiac
 18 Center and Toppenish Community Hospital, the average was 0.67% and 1.47%, respectively.¹
 19 For each year from at least 2010 to 2014, the most recent year for which data has been analyzed,
 20 both Hospitals consistently provided less charity care than the regional average.

21
 22
 23 ¹ Wash. Dept. of Health, Charity Care in Washington Hospitals, (Jan. 2016), available at
<http://www.doh.wa.gov/DataandStatisticalReports/HealthcareinWashington/HospitalandPatientInformation/HospitalPatientInformationandCharityCare/CharityCareinWashingtonHospitals>.

Year	Central Region Average	Yakima Regional Medical and Cardiac Hospital Average	Toppenish Community Hospital Average
2014	2.16%	0.68%	N/A
2013	2.16%	0.78%	1.00%
2012	2.49%	1.54%	1.36%
2011	2.36%	1.05%	1.10%

25. On March 1, 2016, a buyer submitted to HMA a “non-binding agreement in principle” with CHSPSC, LLC setting forth several broad deal terms under which the buyer might purchase the Hospitals (“Letter of Intent”). CHSPSC, LLC purportedly owns and operates the Hospitals.

26. The Letter of Intent is nonbinding and states that the parties contemplate that a “Definitive Agreement” will be drafted at some point in the future.

27. The Letter of Intent includes a No-Shop Provision, in which CHSPSC, LLC agrees that it will not, without the buyer’s approval, (1) offer to sell the Hospitals, (2) solicit offers to buy the Hospitals, (3) discuss with another party such an offer or solicitation, or (4) enter into an agreement with another party regarding the sale or disposition of the Hospitals.

28. The Letter of Intent does not address essential components of the deal, including conditions precedent to the parties obligation to perform; establishing a credit worthy entity or escrow holdback to account for post-closing liabilities; adjustments to purchase price; representations and warranties of the seller; specific parameters of the non-compete; specific allocation of the purchase price; whether there is a due diligence period and if so, its length; and the timeline for closing.

29. The Letter of Intent also does not include schedules, lists, or disclosures.

1 30. On information and belief, HMA and Buyer have not completed substantive due
2 diligence to ascertain the essential facts of the transaction and their implications for the stated
3 purchase price. The Foundation believes that the non-binding agreement will be subject to
4 further negotiation based on said due diligence and that a definitive binding agreement will not
5 be signed at least until said due diligence is complete.

6 31. On information and belief, the Attorney General's office and other state agencies
7 have not received notice of, reviewed, or approved of the proposed sale.

8 32. HMA has failed to inform the local board of trustees for the Hospitals of the
9 Letter of Intent, foreclosing the opportunity for meaningful community input.

10 33. The buyer has not submitted earnest money or other payment to demonstrate its
11 commitment to purchase the Hospitals.

12 34. On March 16, 2016, Health Management Associates, LLC sent a letter to the
13 Foundation informing it of the Letter of Intent between Buyer and CHSPSC, LLC and asserting
14 that the Letter of Intent invoked the Foundation's ROFR ("ROFR Notice").

15 35. By letter dated March 29, 2016, the Foundation sent a letter informing HMA that
16 the nonbinding, preliminary Letter of Intent did not invoke the Foundation's ROFR. The
17 Foundation requested that HMA revoke the ROFR Notice immediately and comply with the
18 terms of the ROFR by providing the Foundation with the final Definitive Agreement.

19 36. On March 31, 2016, HMA informed the Foundation that it did not intend to
20 withdraw the ROFR Notice and would provide the Foundation until April 29, 2016 to exercise
21 the ROFR. On April 20, 2016, HMA provided the Foundation with a non-binding draft Asset
22 Purchase Agreement.

37. This controversy is propounded by the short timeline permitted for the Foundation to exercise its ROFR or foreclose all opportunities to ensure the sale of the Hospitals to another appropriate entity that will meet required commitments to provide affordable and charity health care to the community.

38. HMA has attempted to impede further the Foundation's ability to exercise the ROFR by taking the position that the ROFR is not assignable.

V. FIRST CAUSE OF ACTION

(Declaratory Judgment—Right of First Refusal)

39. An actual dispute exists between HMA and the Foundation regarding whether the non-binding, preliminary Letter of Intent is sufficient to invoke the Foundation's ROFR.

40. HMA and the Foundation have genuine and opposing interests which are direct and substantial.

41. A judicial determination would be final and conclusive.

42. The Foundation is entitled to a declaratory judgment stating (1) the Letter of Intent is only invoked by a binding agreement that contains a complete description of the essential terms of the deal, (2) the nonbinding, preliminary Letter of Intent is neither sufficiently detailed nor definitive to invoke the ROFR, and (3) the ROFR Notice is insufficient, ineffective, and void.

VI. SECOND CAUSE OF ACTION

(Declaratory Judgment—Charity Care)

43. An actual dispute exists between HMA and the Foundation regarding whether HMA has provided the level of charity care required by the Agreement and the Certificates of Need.

1 44. HMA and the Foundation have genuine and opposing interests which are direct
2 and substantial.
3

4 45. A judicial determination would be final and conclusive.
5

6 46. The Foundation is entitled to a declaratory judgment stating (1) the Agreement
7 and the Certificates of Need require HMA and its successors-in-interest to use reasonable efforts
8 to provide charity care in an amount comparable to or exceeding the average amount provided by
9 hospitals in the Central Washington region, (2) HMA and its successors-in-interest have failed to
10 take reasonable efforts to provide the requisite amount of charity care, and (3) the failure of
11 HMA and its successors-in-interest to provide charity care is a violation of the Agreement and
12 the Certificate of Need.
13

VII. PRAYER FOR RELIEF

14 The Foundation respectfully requests the following relief:
15

16 A. A declaratory judgment stating:
17

- 18 (1) the Letter of Intent is only invoked by a binding agreement that contains a
19 complete description of the essential terms of the deal,
20 (2) the nonbinding, preliminary Letter of Intent is not sufficiently detailed or
21 definitive to invoke the ROFR,
22 (3) the ROFR Notice is insufficient, ineffective, and void
23 (4) the Agreement and the Certificates of Need require HMA and its successors-
24 in-interest to use reasonable efforts to provide charity care in an amount
 comparable to or exceeding the average amount provided by hospitals in the
 Central Washington region,
25

1 (5) HMA and its successors-in-interest have failed to take reasonable efforts to
2 provide the requisite amount of charity care, and

3 (6) the failure of HMA and its successors-in-interest to provide charity care is a
4 violation of the Agreement and the Certificate of Need.

- 5 B. An award of reasonable attorney fees, expenses, and costs to the fullest extent allowed by
6 law and equity; and
7 C. Such further relief as this Court deems necessary and proper.

8 DATED this 29th day of April, 2016.

9 PACIFICA LAW GROUP LLP

10 By 

11 Paul J. Lawrence, WSBA # 13557
12 Alanna E. Peterson, WSBA #46502

13 Attorneys for Plaintiff Yakima Valley
Community Foundation

EXHIBIT A

CONFIDENTIAL

Schedule 10.8

Right of First Refusal

- (a) In the event HMA proposes to dispose of one or both Hospital Facilities, whether by (i) a transfer or sale of more than 50 percent of the voting interest or stock, or substantially all of the assets, of Sub to a Person which is not an Affiliate of HMA immediately after such transfer or sale, or (ii) the merger or consolidation of Sub with or into a Person, the result of which is that the surviving entity is not an Affiliate of HMA immediately after such merger or consolidation (each, a "Disposition"), then HMA will first give the right of first refusal (the "First Refusal") to the Foundation to acquire all (but not less than all) of the assets or capital stock subject to the proposed Disposition (the "First Refusal Transaction") upon payment to HMA of the First Refusal Price. The First Refusal will be given by notice to the Foundation, containing a complete description of the essential terms of the proposed Disposition, including the nature and amount of the proposed consideration and the proposed payment terms thereof, and the name, address, qualifications and background of the Person with which the Disposition is proposed (the "Acquiror") (the date on which such notice is given being the "Offer Date"). The "First Refusal Price" means the same nature and amount of consideration, payable on the same payment terms, proposed to be paid by the acquiror in the Disposition.
- (b) The First Refusal may be exercised by the Foundation by giving to HMA notice of exercise within 30 days following the Offer Date. The Foundation's notice will contain an unequivocal statement of its intention to exercise the First Refusal in accordance with the provisions of this Section and will be accompanied by (iii) a certificate to the effect that the Foundation will use its best efforts, in good faith, to ensure that sufficient funds will, by the time of closing, be available to the Foundation to enable it to pay the First Refusal Price, and (iv) a good faith deposit in an amount equal to 5 percent of the First Refusal Price, which deposit will constitute liquidated damages payable to HMA if the Foundation fails to close the First Refusal Transaction as provided by this Section.
- (c) Within 60 days following the Offer Date, HMA and the Foundation will enter into an agreement setting forth the terms and conditions of the First Refusal Transaction (the "First Refusal Agreement") and will consummate the First Refusal Transaction. The parties' efforts in that regard will be pursued diligently and in good faith, and the First Refusal Agreement will contain only those terms and conditions, comparable to the terms and conditions of this Agreement, as would be customary to consummate the First Refusal Transaction in accordance with the provisions of this Section, including those in respect of any required Governmental Authorizations.

CONFIDENTIAL

- (d) In the event that the Foundation fails to exercise the First Refusal as herein provided, or fails to execute the First Refusal Agreement as herein provided, or fails to close the First Refusal Transaction as herein and therein provided, then HMA's and Sub's consummation of the Disposition will not give rise to any rights or obligations, provided that the Disposition is to the Acquiror and on substantially the terms and conditions described in the notice given by HMA to the Foundation.
- (e) Subject to the execution of a confidentiality agreement acceptable to HMA and its counsel, Sub and HMA will afford to the Foundation and its counsel, accountants and other representatives reasonable access during the period commencing on the Offer Date to and including the date of expiration of the First Refusal or the closing or termination of the First Refusal Transaction (whichever is earliest), to the Hospital Facility or Facilities involved in the Disposition, and the books and records of Sub relevant to its operation of such Hospital Facility or Hospital Facilities, and will promptly furnish the Foundation with all information as the Foundation reasonably requests in connection therewith.

FILED
APR 29 2016

YAKIMA COUNTY CLERK

CIVIL
YAKIMA COUNTY SUPERIOR COURT
Case Information Cover Sheet (CICS)

Case Number: 162 011 8439

Case Title: Yakima Valley Community Foundation v. Health Management Associates, LLC

Attorney Name: Paul Lawrence, WSBA No. 13557

Please check one category that best describes this case for indexing purposes. Accurate case indexing not only saves time in docketing new cases, but helps in forecasting needed judicial resources. Cause of action definitions are listed on the back of this form. Thank you for your cooperation.

- | | | | |
|--|---|------------------------------|---|
| <input type="checkbox"/> ABJ | Abstract of Judgment | <input type="checkbox"/> PRG | Property Damage -- Gangs |
| <input type="checkbox"/> ALR | Administrative Law Review | <input type="checkbox"/> PRP | Property Damages |
| <input type="checkbox"/> ALRJT | Administrative Law Review-Jury Trial (L&I) | <input type="checkbox"/> QTI | Quiet Title |
| <input type="checkbox"/> CHN | Non-Confidential Change of Name | <input type="checkbox"/> RDR | Relief from Duty to Register |
| <input type="checkbox"/> COL | Collection | <input type="checkbox"/> RFR | Restoration of Firearm Rights |
| <input type="checkbox"/> CON | Condemnation | <input type="checkbox"/> SDR | School District-Required Action Plan |
| <input type="checkbox"/> COM | Commercial | <input type="checkbox"/> SPC | Seizure of Property-Commission of Crime |
| <input type="checkbox"/> DOL | Appeal Licensing Revocation | <input type="checkbox"/> SPR | Seizure of Property-Resulting from Crime |
| <input type="checkbox"/> DVP | Domestic Violence | <input type="checkbox"/> STK | Stalking Petition |
| <input type="checkbox"/> EOM | Emancipation of Minor | <input type="checkbox"/> SXP | Sexual Assault Protection |
| <input type="checkbox"/> FJU | Foreign Judgment | <input type="checkbox"/> TAX | Employment Security Tax Warrant |
| <input type="checkbox"/> FOR | Foreclosure | <input type="checkbox"/> TAX | L & I Tax Warrant |
| <input type="checkbox"/> FPO | Foreign Protection Order | <input type="checkbox"/> TAX | Licensing Tax Warrant |
| <input type="checkbox"/> HAR | Unlawful Harassment | <input type="checkbox"/> TAX | Revenue Tax Warrant |
| <input type="checkbox"/> INJ | Injunction | <input type="checkbox"/> TMV | Tort - Motor Vehicle |
| <input type="checkbox"/> INT | Interpleader | <input type="checkbox"/> TRJ | Transcript of Judgment |
| <input type="checkbox"/> LCA | Lower Court Appeal - Civil | <input type="checkbox"/> TTO | Tort - Other |
| <input type="checkbox"/> LCI | Lower Court Appeal - Infractions | <input type="checkbox"/> TXF | Tax Foreclosure |
| <input type="checkbox"/> LUPA | Land Use Petition Act | <input type="checkbox"/> UND | Unlawful Detainer - Commercial |
| <input type="checkbox"/> MAL | Other Malpractice | <input type="checkbox"/> UND | Unlawful Detainer - Residential |
| <input type="checkbox"/> MED | Medical Malpractice | <input type="checkbox"/> VAP | Vulnerable Adult Protection Order |
| <input type="checkbox"/> MHA | Malicious Harassment | <input type="checkbox"/> VVT | Victims of Motor Vehicle Theft-Civil Action |
| <input checked="" type="checkbox"/> MSC2 | Miscellaneous - Civil | <input type="checkbox"/> WDE | Wrongful Death |
| <input type="checkbox"/> MST2 | Minor Settlement - Civil (No Guardianship) | <input type="checkbox"/> WHC | Writ of Habeas Corpus |
| <input type="checkbox"/> PCC | Petition for Civil Commitment (Sexual Predator) | <input type="checkbox"/> WMW | Miscellaneous Writs |
| <input type="checkbox"/> PFA | Property Fairness Act | <input type="checkbox"/> WRM | Writ of Mandamus |
| <input type="checkbox"/> PIN | Personal Injury | <input type="checkbox"/> WRR | Writ of Restitution |
| <input type="checkbox"/> PRA | Public Records Act | <input type="checkbox"/> WRV | Writ of Review |

IF YOU CANNOT DETERMINE THE APPROPRIATE CATEGORY, PLEASE DESCRIBE THE CAUSE OF ACTION BELOW.

Please Note: Public Information in court files and pleadings may be posted on a public Web site.

APPEAL/REVIEW	<p>Administrative Law Review-Petition to the superior court for review of rulings made by state administrative agencies.</p> <p>Appeal of a Department of Licensing Revocation-Appeal of a DOL revocation (RCW 46.20.308(9)).</p> <p>Lower Court Appeal-Civil-An appeal for a civil case; excludes traffic infraction and criminal matters.</p> <p>Lower Court Appeal-Infractions-An appeal for a traffic infraction matter.</p>	<p>Relief from Duty to Register-Civil action requesting relief from duty to register as a sex offender. Petition can address the registration obligation that arises from multiple cases. RCW 9A.44.142, 9A.44.143.</p> <p>Restoration of Firearms Rights-Petition seeking restoration of firearms rights under RCW 9.41.040 and 9.41.047. (Eff. 9-2-2014)</p> <p>School District-Required Action Plan-Petition filed requesting court selection of a required action plan proposal relating to school academic performance.</p> <p>Seizure of Property from the Commission of a Crime-Seizure of personal property which was employed in aiding, abetting, or commission of a crime, from a defendant after conviction.</p> <p>Seizure of Property Resulting from a Crime-Seizure of tangible or intangible property which is the direct or indirect result of a crime, from a defendant following criminal conviction (e.g., remuneration for, or contract interest in, a depiction or account of a crime).</p> <p>Subpoena-Petition for a subpoena.</p>
CONTRACT/COMMERCIAL	<p>Breach of Contract-Complaint involving monetary dispute where a breach of contract is involved.</p> <p>Commercial Contract-Complaint involving monetary dispute where a contract is involved.</p> <p>Commercial Non-Contract-Complaint involving monetary dispute where no contract is involved.</p> <p>Third Party Collection-Complaint involving a third party over a monetary dispute where no contract is involved.</p>	<p>PROPERTY RIGHTS</p> <p>Condemnation-Complaint involving governmental taking of private property with payment, but not necessarily with consent.</p> <p>Foreclosure-Complaint involving termination of ownership rights when a mortgage or tax foreclosure is involved, where ownership is not in question.</p> <p>Land Use Petition-Petition for an expedited judicial review of a land use decision made by a local jurisdiction (RCW 36.70C.040).</p> <p>Property Fairness-Complaint involving the regulation of private property or restraint of land use by a government entity brought forth by Title 64 RCW.</p> <p>Quiet Title-Complaint involving the ownership, use, or disposition of land or real estate other than foreclosure.</p> <p>Unlawful Detainer-Complaint involving the unjustifiable retention of lands or attachments to land, including water and mineral rights.</p>
PROTECTION ORDER	<p>Civil Harassment-Petition for protection from civil harassment.</p> <p>Domestic Violence-Petition for protection from domestic violence.</p> <p>Foreign Protection Orders-Any protection order of a court of the United States, or of any state, territory, or tribal land, which is entitled to full faith and credit in this state.</p> <p>Sexual Assault Protection-Petition under RCW 7.90.020.</p> <p>Stalking-Petition for protection from stalking for victims who do not qualify for a domestic violence protection order. (RCW 7.92.030)</p> <p>Vulnerable Adult Protection-Petition for protection/order for vulnerable adults, as those persons are defined in RCW 74.34.020.</p>	<p>TORT, MEDICAL MALPRACTICE</p> <p>Hospital-Complaint involving injury or death resulting from a hospital.</p> <p>Medical Doctor-Complaint involving injury or death resulting from a medical doctor.</p> <p>Other Health Care Professional-Complaint involving injury or death resulting from a health care professional other than a medical doctor.</p>
JUDGMENT	<p>Abstract Only-A certified copy of a judgment docket from another superior court, an appellate court, or a federal district court.</p> <p>Foreign Judgment-Any judgment, decree, or order of a court of the United States, or of any state or territory, which is entitled to full faith and credit in this state.</p> <p>Judgment, Another County-A certified copy of a judgment docket from another superior court within the state.</p> <p>Judgment, Another State-Any judgment, decree, or order from another state which is entitled to full faith and credit in this state.</p> <p>Tax Warrants-A notice of assessment by a state agency creating a judgment/lien in the county in which it is filed. (Four types available.)</p> <p>Transcript of Judgment-A certified copy of a judgment from a court of limited jurisdiction to a superior court in the same county.</p>	<p>TORT, MOTOR VEHICLE</p> <p>Death-Complaint involving death resulting from an incident involving a motor vehicle.</p> <p>Non-Death Injuries-Complaint involving non-death injuries resulting from an incident involving a motor vehicle.</p> <p>Property Damage Only-Complaint involving only property damages resulting from an incident involving a motor vehicle.</p>
OTHER COMPLAINT/PETITION	<p>Change of Name-Petition for a change of name. If change is confidential due to domestic violence/anti-harassment see case type 5 instead.</p> <p>Deposit of Surplus Funds-Deposit of money or other item with the court.</p> <p>Emancipation of Minor-Petition by a minor for a declaration of emancipation.</p> <p>Injunction-Complaint/petition to require a person to do or refrain from doing a particular thing.</p> <p>Interpleader-Petition for the deposit of disputed earnest money from real estate, insurance proceeds, and/or other transaction(s).</p> <p>Malicious Harassment-Suit involving damages resulting from malicious harassment.</p> <p>Minor Settlements-Petition for a court decision that an award to a minor is appropriate when no letters of guardianship are required (e.g., net settlement value \$25,000 or less).</p> <p>Petition for Civil Commitment (Sexual Predator)-Petition for the involuntary civil commitment of a person who 1) has been convicted of a sexually violent offense whose term of confinement is about to expire, or has expired, 2) has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial who is about to be released or has been released, or 3) has been found not guilty by reason of insanity of a sexually violent offense and who is about to be released or has been released, and it appears that the person may be a sexually violent predator.</p> <p>Property Damage-Gang-Complaint involving damage to property related to gang activity.</p> <p>Public Records Act-Actions filed under RCW 42.56.</p>	<p>TORT, NON-MOTOR VEHICLE</p> <p>Asbestos-Complaint alleging injury resulting from asbestos exposure.</p> <p>Other Malpractice-Complaint involving injury resulting from other than professional medical treatment.</p> <p>Personal Injury-Complaint involving physical injury not resulting from professional medical treatment, and where a motor vehicle is not involved.</p> <p>Products Liability-Complaint involving injury resulting from a commercial product.</p> <p>Property Damages-Complaint involving damage to real or personal property excluding motor vehicles.</p> <p>Victims of Motor Vehicle Theft-Complaint filed by a victim of car theft to recover damages. (RCW 9A.56.078)</p> <p>Wrongful Death-Complaint involving death resulting from other than professional medical treatment.</p>
WRIT		<p>Writ of Habeas Corpus-Petition for a writ to bring a party before the court.</p> <p>Writ of Mandamus-Petition for writ commanding performance of a particular act or duty.</p> <p>Writ of Restitution-Petition for a writ restoring property or proceeds; not an unlawful detainer petition.</p> <p>Writ of Review-Petition for review of the record or decision of a case pending in the lower court; does not include lower court appeals or administrative law reviews.</p> <p>Miscellaneous Writs</p>

Updated: 6/30/2015